

103^D CONGRESS
2^D SESSION

S. 2284

To redesignate the Black Canyon of the Gunnison National Monument as a national park, to establish the Black Canyon of the Gunnison National Conservation Area, to establish the Curecanti National Recreation Area, to include the Gunnison River in the Nation's Wild and Scenic River System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14 (legislative day, JULY 11), 1994

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To redesignate the Black Canyon of the Gunnison National Monument as a national park, to establish the Black Canyon of the Gunnison National Conservation Area, to establish the Curecanti National Recreation Area, to include the Gunnison River in the Nation's Wild and Scenic River System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Black Canyon National
5 Conservation Act of 1993”.

1 **SEC. 2. REDESIGNATION OF THE NATIONAL MONUMENT AS**
2 **A NATIONAL PARK.**

3 (a) REDESIGNATION.—The Black Canyon of the
4 Gunnison National Monument is hereby redesignated as
5 the Black Canyon of the Gunnison National Park.

6 (b) AREA INCLUDED.—The national park shall con-
7 sist of the existing Black Canyon of the Gunnison Na-
8 tional Monument. Any funds available for the purposes of
9 the monument shall be made available for the purposes
10 of the park. All valid existing rights within the monument
11 shall be included in the national park.

12 (c) ADMINISTRATION.—The Secretary of the Interior
13 (hereinafter referred to as the Secretary) shall administer
14 the Black Canyon of the Gunnison National Park in ac-
15 cordance with this Act and with the provisions of law gen-
16 erally applicable to units of the National Park System in-
17 cluding but not limited to the Act entitled “An Act to es-
18 tablish a National Park Service, and for other purposes”,
19 approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–
20 4), and the Act of August 21, 1935 (49 Stat. 666; 16
21 U.S.C. 461–467). The Secretary shall continue to manage
22 the existing Black Canyon of the Gunnison National
23 Monument pursuant to Presidential Proclamations No.
24 2033 dated March 2, 1933, No. 2286 dated May 16,
25 1938, and No. 2372 dated October 28, 1939; the Act of
26 October 20, 1976 (90 Stat. 2892, Public Law 94–567);

1 and the Act of July 13, 1984 (90 Stat. 397, Public Law
2 98–357).

3 (d) WATER RIGHTS.—Any reservation of water or
4 water rights arising from the designation of the national
5 park shall not expand or otherwise conflict with in any
6 manner the decreed amounts or uses of the existing re-
7 served water right for the Black Canyon of the Gunnison
8 National Monument. Any reservation of water or water
9 rights for the national park shall be completely coincident
10 with the existing reserved water right for the Black Can-
11 yon of the Gunnison National Monument and be a mere
12 extension of the Monument’s existing reserved water right
13 through the national park except, that no date of reserva-
14 tion or appropriation for the national park may be claimed
15 which precedes the date of enactment of this Act. Any res-
16 ervation of water or water rights for the conservation area
17 shall be deemed to be fully satisfied by deliveries under
18 the water service contract described in section 8(c) herein
19 in any year.

20 **SEC. 3. ESTABLISHMENT OF THE BLACK CANYON OF THE**
21 **GUNNISON NATIONAL CONSERVATION AREA.**

22 (a) ESTABLISHMENT.—In order to protect that area
23 in Colorado containing the Gunnison Gorge and other
24 unique and nationally important recreational, geologic,
25 ecologic, scenic, educational, and scientific resources of the

1 public lands (as such term is defined in section 103(e) of
2 the Federal Land Policy and Management Act of 1976)
3 in and around the lower Gunnison Gorge for the benefit
4 and enjoyment of future generations, there is hereby es-
5 tablished the Gunnison Gorge National Conservation Area
6 (hereafter in this Act referred to as the “conservation
7 area”).

8 (b) AREA INCLUDED.—The conservation area shall
9 consist of approximately 64,139 acres as generally de-
10 picted on the map entitled “Gunnison Gorge National
11 Conservation Area” dated 1993.

12 (c) MAP AND DESCRIPTION.—As soon as practicable
13 after the date of enactment of this Act, the Secretary shall
14 file a map and boundary description of the conservation
15 area designated under this section with the Committee on
16 Energy and Natural Resources of the United States Sen-
17 ate and the Committee on Natural Resources of the
18 United States House of Representatives. The map and de-
19 scription shall have the same force and effect as if in-
20 cluded in this Act, except that the Secretary may correct
21 clerical and typographical errors in such boundary descrip-
22 tion. The map and boundary description shall be on file
23 and available for public inspection in the offices of the Di-
24 rector and Colorado State Director of the Bureau of Land
25 Management, Department of the Interior.

1 (d) ADMINISTRATION.—The Secretary, acting
2 through the Director of the Bureau of Land Management,
3 shall manage the conservation area to protect its resources
4 in accordance with this Act, the Federal Land Manage-
5 ment and Policy Act of 1976, and other applicable provi-
6 sions of law.

7 (e) WITHDRAWAL.—Subject to valid existing rights,
8 all federal lands within the conservation area and all lands
9 and interests therein which are hereafter acquired by the
10 United States are hereby, withdrawn from all forms of
11 entry, appropriation, or disposal under the public land
12 laws and from location, entry, and patent under the min-
13 ing laws, and from operation of the mineral leasing and
14 geothermal leasing laws and all amendments thereto.

15 (f) HUNTING, TRAPPING AND FISHING.—To the ex-
16 tent compatible with the purposes for which the conserva-
17 tion area is established, the Secretary shall permit hunt-
18 ing, trapping, and fishing within the conservation area in
19 accordance with applicable laws and regulations of the
20 United States and the State of Colorado; except that the
21 Secretary, after consultation with the Colorado Division
22 of Wildlife, may issue regulations designating zones where
23 and establishing periods when no hunting or trapping shall
24 be permitted for reasons of public safety, administration,
25 or public use and enjoyment.

1 (g) GRAZING.—To the extent compatible with the
2 purposes for which the conservation area is established,
3 the grazing of livestock in the conservation area, where
4 established prior to the date of the enactment of this Act,
5 may be permitted to continue in accordance with the Act
6 of June 28, 1934 (43 U.S.C. 315 et seq.; commonly re-
7 ferred to as the “Taylor Grazing Act”), section 402 of
8 the Federal Land Policy and Management Act of 1976,
9 and other laws applicable to such use of the public lands.

10 (h) WATER RIGHTS.—Any reservation of water or
11 water rights arising from the designation of the conserva-
12 tion area shall not expand or otherwise conflict with in
13 any manner the decreed amounts or uses of the existing
14 reserved water right for the Black Canyon of the Gunnison
15 National Monument. Any reservation of water or water
16 rights for the conservation area shall be completely coinci-
17 dent with the existing reserved water right for the Black
18 Canyon of the Gunnison National Monument and be a
19 mere extension of the Monument’s existing reserved water
20 right through the conservation area; except, that no date
21 of reservation or appropriation for the conservation area
22 may be claimed which precedes the date of enactment of
23 this Act. Any reservation of water or water rights for the
24 conservation area shall be deemed to be fully satisfied by

1 deliveries under the water service contract described in
2 section 8(c) herein in any year.

3 (i) **MOTORIZED VEHICLES.**—To the extent compat-
4 ible with the purposes for which the conservation area is
5 established, the use of motorized vehicles in the conserva-
6 tion area shall be allowed, but only on routes specifically
7 designated for such use as part of the management plan
8 prepared pursuant to this Act, except where needed for
9 administrative or emergency purposes.

10 (j) **VISITOR USE.**—Visitor use of the conservation
11 area shall be permitted to the extent compatible with the
12 purposes for which the conservation area is established.
13 The Secretary shall have the power to implement such rea-
14 sonable limits to such use of the conservation area as he
15 finds appropriate for the protection of the resources of the
16 conservation area, including requiring permits for public
17 use, or closing portions of the conservation area to public
18 use.

19 (k) **ENFORCEMENT.**—Any person who violates the
20 provisions of this section or any regulation promulgated
21 by the Secretary to implement this section shall be subject
22 to a fine of up to \$10,000 or imprisonment of up to one
23 year, or both.

1 **SEC. 4. DESIGNATING THE GUNNISON RIVER AS A WILD**
2 **AND SCENIC RIVER.**

3 (a) DESIGNATION.—Section 3(a) of the Wild and
4 Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by add-
5 ing the following new paragraph at the end:

6 “() GUNNISON, COLORADO.—The Gunnison River
7 from the upstream boundary of the Black Canyon of the
8 Gunnison National Monument downstream to the con-
9 fluence of the Smith Fork, to be administered by the Sec-
10 retary of the Interior.”.

11 (b) WATER DEVELOPMENT.—For the purposes of the
12 Wild and Scenic Rivers Act, the storage, diversion and
13 consumptive use of the water of the Gunnison River by
14 projects located entirely downstream of the river segment
15 designated by subsection (a) as a component of the Na-
16 tional Wild and Scenic River System, shall not be consid-
17 ered to have an adverse effect on the values for which the
18 segment is so designated.

19 (c) WATER RIGHTS.—Any reservation of water or
20 water rights arising from the designation of the Wild and
21 Scenic River shall not expand or otherwise conflict with-
22 in any manner the decreed amounts or uses of the existing
23 reserved water right for the Black Canyon of the Gunnison
24 National Monument. Any reservation of water or water
25 rights for the Wild and Scenic River shall be completely
26 coincident with the existing reserved water right for the

1 Black Canyon of the Gunnison National Monument and
2 be a mere extension of the Monument's existing reserved
3 water right through the designated wild and scenic reach;
4 except, that no date of reservation or appropriation for
5 the Wild and Scenic River may be claimed which precedes
6 the date of enactment of this Act. Any reservation of water
7 or water rights for the Wild and Scenic River shall be
8 deemed to be fully satisfied by deliveries under the water
9 service contract described in section 8(b) herein in any
10 year.

11 **SEC. 5. GENERAL MANAGEMENT PLAN AND VISITOR CEN-**
12 **TER.**

13 (a) PLAN.—Within three full fiscal years following
14 the fiscal year of enactment of this Act, the Secretary shall
15 develop and transmit to the Committee on Energy and
16 Natural Resources of the United States Senate and to the
17 Committee on Natural Resources of the United States
18 House of Representatives a comprehensive plan for the
19 long-range protection and management of the conservation
20 area. The plan shall describe the appropriate uses and
21 management of the conservation area consistent with the
22 purposes of this Act. The plan shall incorporate appro-
23 priate decisions contained in the Uncompahgre Basin Re-
24 source Management Plan (completed in September 1988),
25 the Gunnison Gorge Recreation Area Management Plan

1 (completed on July 24, 1985 and supplemented on July
2 21, 1988). The plan shall also incorporate wildlife habitat
3 management plans that have been prepared for the lands
4 within or adjacent to the conservation area, and shall be
5 prepared in close consultation with appropriate agencies
6 of the State of Colorado and shall utilize information de-
7 veloped in previous studies of the lands within or adjacent
8 to the conservation area.

9 (b) VISITORS CENTER.—The Secretary is authorized
10 and to the extent appropriated funds are made available
11 directed to establish a visitors center to provide informa-
12 tion and interpretation of both the Black Canyon National
13 Park and the conservation area.

14 (c) MANAGEMENT OF ACQUIRED LANDS.—Any lands
15 or interests within or contiguous to the boundaries of the
16 conservation area which after the date of enactment of this
17 Act may be acquired by the United States shall be incor-
18 porated into the conservation area, and shall be managed
19 in accordance with all the provisions of this Act and other
20 laws applicable to the conservation area.

21 (d) LIMITATIONS.—No federally owned lands located
22 within the boundaries of the conservation area shall be
23 transferred out of Federal ownership, or be placed in trust
24 by exchange or otherwise. Any lands within such bound-
25 aries which as of the date of enactment of this Act are

1 managed pursuant to section 603 of the Federal Land
2 Policy and Management Act of 1976 (43 U.S.C. 1782)
3 shall continue to be so managed until Congress determines
4 otherwise.

5 **SEC. 6. ESTABLISHMENT OF THE CURECANTI NATIONAL**
6 **RECREATION AREA.**

7 (a) IN GENERAL.—In order to provide for the public
8 use and enjoyment of the lands withdrawn or acquired for
9 and the water areas created by the Wayne N. Aspinall
10 Unit of the Colorado River Storage Project, there is estab-
11 lished as a unit of the National Park System the Curecanti
12 National Recreation Area (hereafter in this Act referred
13 to as the “recreation area”).

14 (b) AREA INCLUDED.—The recreation area shall be
15 comprised of the lands, waters and interests therein within
16 the area generally depicted on the map entitled “Boundary
17 Map, Curecanti National Recreation Area,” numbered
18 , and dated . The map shall be on file and available
19 for public inspection in the offices of the Director of the
20 National Park Service, Department of the Interior, the of-
21 fice of the Rocky Mountain Region, National Park Service,
22 and the office of the Superintendent, Curecanti National
23 Recreation Area, Colorado. The Secretary may make
24 minor revisions in the boundary of the recreation area by

1 publication in the Federal Register of a revised map or
2 other boundary description.

3 (c) WITHDRAWAL AND TRANSFER OF ADMINISTRA-
4 TIVE JURISDICTION.—

5 (1) Subject to valid existing rights, all Federal
6 lands and interests within the national recreation
7 area are withdrawn from disposition under the pub-
8 lic land laws, from location, entry, and patent under
9 the mining laws of the United States, from the oper-
10 ation of the mineral leasing laws of the United
11 States, and from operation of the Geothermal Steam
12 Act of 1970.

13 (2) Except as provided in paragraph (3), ad-
14 ministrative jurisdiction of such lands is transferred
15 to the National Park Service.

16 (3) The establishment of the recreation area
17 under subsection (a) shall not adversely affect the
18 validity of withdrawals made before the date of en-
19 actment of this Act for reclamation or power pur-
20 poses. Operation of improvements on and the man-
21 agement of the lands occupied by dams, structures,
22 or other facilities appurtenant to the Colorado River
23 Storage Project (42 U.S.C. 620 et seq.) shall be the
24 responsibility of the Bureau of Reclamation. Such
25 lands shall be delineated through a joint agreement

1 between the Bureau of Reclamation, the National
2 Park Service, and all associated entities. Should the
3 agencies feel it desirable, additional agreements may
4 address sharing of jurisdiction and authorities on
5 the delineated lands. All lands within the recreation
6 area which have been withdrawn or acquired by the
7 United States for reclamation purposes shall remain
8 subject to the purposes and uses established under
9 the Colorado River Storage Project Act of 1956 (42
10 U.S.C. 620 et seq.). The Secretary may exclude any
11 area from the recreation area for reclamation or
12 power purposes upon determining that it is in the
13 national interest to do so.

14 (d) ADJUSTMENT OF BOUNDARY OF GUNNISON NA-
15 TIONAL FOREST.—The exterior boundary of the Gunnison
16 National Forest is modified to reflect the transfer of juris-
17 diction under subsection (c), as generally depicted on the
18 map referred to in subsection (b).

19 **SEC. 7. ADMINISTRATION OF THE CURECANTI NATIONAL**
20 **RECREATION AREA.**

21 (a) IN GENERAL.—The Secretary shall administer,
22 protect, and develop the recreation area in accordance
23 with this Act and with the provisions of law generally ap-
24 plicable to units of the national park system, including the
25 Act entitled “An Act to establish a National Park Service,

1 and for other purposes'', approved August 25, 1916 (16
2 U.S.C. 1-4).

3 (b) RECREATIONAL ACTIVITIES.—In carrying out
4 this Act, in addition to other related activities that may
5 be permitted pursuant to this Act, the Secretary shall pro-
6 vide for general recreation uses, including (but not limited
7 to) swimming, fishing, boating, hiking, horseback riding,
8 camping, and picnicking; grazing and the harvesting of
9 hay; the maintenance of roads, stock driveways, and utility
10 rights-of-way; off-road vehicle use below high water levels
11 on designated trails and in designated areas; snowmobile
12 use below high water levels, on frozen lake surfaces, and
13 on related designated access routes; and other such uses
14 as the Secretary may deem appropriate.

15 (c) HUNTING, FISHING, AND TRAPPING.—The Sec-
16 retary shall permit hunting, fishing, noncommercial taking
17 of fresh-water crustaceans, and trapping on the lands and
18 waters under the Secretary's jurisdiction within the recre-
19 ation area in accordance with applicable laws and regula-
20 tions of the United States and the State of Colorado. The
21 Secretary, after consultation with the Colorado Division
22 of Wildlife, may issue regulations designating zones where
23 and establishing periods when such activities will not be
24 permitted for reasons of public safety, administration, fish
25 and wildlife management, or public use and enjoyment.

1 (d) ACQUISITION AND DISPOSAL OF LAND.—

2 (1) The Secretary may acquire land or interests
3 in land within, or adjacent to, the boundaries of the
4 recreation area by donation, purchase with donated
5 or appropriated funds or exchange.

6 (2) The Secretary shall sell or exchange such
7 interests as he or she may have in real property and
8 improvements in parcels of 10 acres or less which
9 are encroached upon, as of the date of enactment of
10 this Act, by improvements occupied or used under
11 claim or color of title by persons to whom no ad-
12 vance notice was given that the improvements en-
13 croached or would encroach upon such parcels, and
14 who in good faith relied upon an erroneous survey,
15 title search, or other land description indicating that
16 there was not such encroachment to such persons so
17 encroaching. Such lands so conveyed shall be re-
18 moved from the recreation area.

19 (3) No such tract shall be sold or exchanged for
20 less than its appraised fair market value, except that
21 the purchaser shall not be required to pay for any
22 value the purchaser or the purchasers predecessors
23 in interest have added to the land. Nothing in this
24 Act shall relieve any person from liability to the

1 United States for unauthorized use of the land prior
2 to conveyance of title by the United States.

3 (4) Notwithstanding any other provision of law,
4 proceeds of any such conveyance shall be available to
5 offset the administrative expenses thereof.

6 (5) The authority granted by this section shall
7 expire at the end of the 10-year period beginning on
8 the date of enactment of this Act or the completion
9 of an approved boundary survey, whichever is later.
10 Sales for which an application has been made in ac-
11 cordance with this section prior to the expiration of
12 such 10-year period may be consummated after the
13 10-year period. Any encroachments not resolved
14 within this 10-year period may be considered tres-
15 pass and the Secretary will take such action as is
16 appropriate.

17 (e) CONVEYANCE OF RIVERWAY TRACT.—

18 (1) The Secretary shall convey to the city of
19 Gunnison, Colorado, or to such other public agency
20 as the Secretary deems appropriate, for an amount
21 not to exceed fair market appraised value, the land
22 known as the Riverway Tract in section 8, township
23 49 north, range 1 west, New Mexico principal merid-
24 ian.

1 (2) Such conveyance shall be for recreational
2 purposes only, shall be subject to such assurances as
3 the Secretary may require, and shall be in accord
4 with the provisions of the Recreation and Public
5 Purposes Act (43 U.S.C. 869 et seq.).

6 (f) WATER RIGHTS.—The water requirements of the
7 Curecanti National Recreation Area shall be satisfied sole-
8 ly by the exercise, in accordance with existing law and Sec-
9 tion 8 of this Act, of water rights associated with the
10 Wayne N. Aspinall Unit.

11 **SEC. 8. OPERATION OF FEDERAL WATER PROJECTS.**

12 (a) OPERATION OF THE WAYNE N. ASPINALL
13 UNIT.—The Secretary is authorized until such time as the
14 contract referenced in section (b) is executed, to operate
15 the Wayne N. Aspinall Unit (Unit) of the Colorado River
16 Storage Project in a manner which complies with the re-
17 quirements of subsection (c) and enhances flow conditions
18 for existing water users, the national park, national con-
19 servation area and Wild and Scenic River designated by
20 this Act. In determining such operations, the Secretary
21 shall take into consideration existing water rights associ-
22 ated with the Unit, authorized project purposes and any
23 Unit contracts; and shall consult with the Bureau of Rec-
24 lamation, the National Park Service, the Bureau of Land
25 Management, the Fish and Wildlife Service, the Western

1 Area Power Administration, the State of Colorado, local
2 water users agencies, contractors who purchase of federal
3 power from the Unit, and such other entities as the Sec-
4 retary may deem appropriate.

5 (b) OPERATION OF THE TAYLOR PARK RES-
6 ERVOIR.—The Secretary shall operate the facilities of the
7 Unit and the Uncompahgre project in a manner consistent
8 with the Taylor Park Reservoir Operation and Storage
9 Exchange Agreement dated August 28, 1975, by and be-
10 tween the United States of America, the Colorado River
11 Water Conservation District, the Upper Gunnison Water
12 Conservation District, and the Uncompahgre Valley Water
13 Users Association, as amended.

14 (c) WATER SERVICE CONTRACT.—The Secretary
15 shall execute a water service contract described in the no-
16 tice to the Federal Register of Wednesday, May 8, 1992,
17 (Vol. 57, No. 88) providing for the delivery of water to
18 the Black Canyon of the Gunnison National Park and
19 Conservation Area. The water service contract shall fully
20 satisfy and fulfill the purposes of Sections 2, 3 and 4 of
21 this Act.

22 (d) COMPLIANCE WITH EXISTING LAW.—The Sec-
23 retary shall implement this Act in a manner fully consist-
24 ent with and subject to the Colorado River Compact, the
25 upper Colorado River Basin Compact, the Water Treaty

1 of 1944 with Mexico, the Boulder Canyon Project Act, and
2 the Boulder County Project Adjustment Act. The Sec-
3 retary shall operate the Wayne N. Aspinall Unit for the
4 purposes specified in this Act and in the Colorado River
5 Storage Project Act of 1956, the Colorado River Project
6 Act, and any other applicable Federal reclamation law or
7 decree that governs the allocation, appropriation, develop-
8 ment and exportation of the waters of the Colorado River
9 Basin; provided that nothing in this section shall be con-
10 strued to affect in any way—

11 (1) the allocations of water secured to the Colo-
12 rado River Basin States by any compact or decree,
13 or

14 (2) any Federal environmental law, including
15 the Endangered Species Act (16 U.S.C. 1531 et
16 seq.).

17 (e) The Secretary is prohibited from using funds
18 from the sale of electric power and energy to carry out
19 the purposes of this Act. If the Secretary finds that in
20 any year that the enactment of this Act does cause a re-
21 duction in net offsetting receipts generated by all the pro-
22 visions of this Act, these costs shall be nonreimbursable.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 There are hereby authorized to be appropriated such
3 sums as may be necessary to carry out this Act.

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